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## NOTICE OF ALLOWANCE AND FEE(S) DUE

26245 7590 05/22/2008

DAVID J COLE  
E INK CORPORATION  
733 CONCORD AVE  
CAMBRIDGE, MA 02138-1002

|                                 |              |
|---------------------------------|--------------|
| EXAMINER                        |              |
| DHARIA, PRABODH M               |              |
| ART UNIT                        | PAPER NUMBER |
| 2629<br>DATE MAILED: 05/22/2008 |              |

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/711,802      | 10/06/2004  | Joseph M. Jacobson   | H-390               | 5801             |

TITLE OF INVENTION: ELECTRO-WETTING DISPLAYS

| APPLN. TYPE    | SMALL ENTITY | ISSUE FEE DUE | PUBLICATION FEE DUE | PREV. PAID ISSUE FEE | TOTAL FEE(S) DUE | DATE DUE   |
|----------------|--------------|---------------|---------------------|----------------------|------------------|------------|
| nonprovisional | YES          | \$720         | \$300               | \$0                  | \$1020           | 08/22/2008 |

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.**

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.**

### HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

## PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail Stop ISSUE FEE**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, Virginia 22313-1450**  
**or Fax (571)-273-2885**

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

26245 7590 05/22/2008

**DAVID J COLE**  
**E INK CORPORATION**  
**733 CONCORD AVE**  
**CAMBRIDGE, MA 02138-1002**

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

### Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the **Mail Stop ISSUE FEE** address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| nonprovisional    | YES          | \$720          | \$300               | \$0                  | \$1020           | 08/22/2008 |
| EXAMINER          | ART UNIT     | CLASS-SUBCLASS |                     |                      |                  |            |
| DHARIA, PRABODH M | 2629         | 345-204000     |                     |                      |                  |            |

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
 "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list  
 (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,  
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 \_\_\_\_\_  
 2 \_\_\_\_\_  
 3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent):  Individual  Corporation or other private group entity  Government

4a. The following fee(s) are submitted:

Issue Fee  
 Publication Fee (No small entity discount permitted)  
 Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

A check is enclosed.  
 Payment by credit card. Form PTO-2038 is attached.  
 The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.  b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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| DAVID J COLE<br>E INK CORPORATION<br>733 CONCORD AVE<br>CAMBRIDGE, MA 02138-1002 |             |                      |                     | DHARIA, PRABODH M |  |  |
|  |             | ART UNIT             |                     | PAPER NUMBER      |  |  |
|  |             |                      |                     | 2629              |  |  |
| DATE MAILED: 05/22/2008  |             |                      |                     |                   |  |  |

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 628 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 628 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

|                               |                        |                     |  |
|-------------------------------|------------------------|---------------------|--|
| <b>Notice of Allowability</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                               | 10/711,802             | JACOBSON ET AL.     |  |
|                               | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                               | PRABODH M. DHARIA      | 2629                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 03-18-2008.
2.  The allowed claim(s) is/are 1-25.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
 of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

/Prabodh M Dharia/  
Primary Examiner, Art Unit 2629

1. **Status:** Please all the replies and correspondence should be addressed to Examiner's new art unit 2629. Receipt is acknowledged of papers submitted on 03-18-2008 under request for reconsideration, which have been placed of record in the file. Claims 1-25 are pending.

2. Applicant arguments filed on 03-18-2007, under remark regarding allowable limitations For Claims 1-18 and 22-25

“a first fluid disposed adjacent the substrate, the first fluid absorbing at least one wavelength of light; a light-transmissive second fluid immiscible with the first fluid; at least one electrode for applying an electric field to the first fluid; and a concealment member spaced from the substrate and formed from a substantially opaque material, such that, in the absence of an electric field, the first fluid covers a first area of the substrate, but that upon application of an electric field to the first fluid by the at least one electrode, the first fluid moves to a second area smaller than the first area and substantially confined between the concealment member and the substrate, so that the concealment member substantially conceals the first fluid from an observer viewing the display from the opposed side of the concealment member from the substrate”.

For Claims 19-21

“a substrate having an exposed surface resistant to wetting by the fluid; at least three conductive vias extending through the substrate and terminating adjacent the exposed surface thereof; and cap members covering the ends of the conductive vias adjacent the” are persuasive; as after further extensive search and consideration, independent claims 1, 5, 15, 19, 22 and 25 do overcome the prior art rejection mailed on 11-13-2007, therefore the prior art rejection of 11-13-2007 is withdrawn; which puts application number 10711802 in condition for allowance.

***Response to Arguments***

3. Applicant's arguments, see remark, filed 03-12-2007, with respect to Claims 1-25 have been fully considered and are persuasive. The non-final rejection mailed on 11/13/2007 is withdrawn. The priority date of instant application 10-08-2003 is earlier than filing date 08-16-2004 of Feenstra, Bokke Johannes et al. (US 2005/0104804 A1), therefore the prior art of Feenstra, Bokke Johannes et al. (US 2005/0104804 A1), is disqualified.

***Allowable Subject Matter***

4. Claims 1-25 are allowed.

5. The following is an examiner's statement of reasons for allowance:

6. Applicant's arguments filed on 03-12-2008 are convincing. As argued by applicant in remarks under claim rejection page 2-6 and page 7, paragraph 1; prior art of Feenstra, Bokke Johannes et al. (US 2005/0104804 A1) with all of the other prior art cited on 892's 1449's, searched in NPL and searched in PGPUB, fails to recite or disclose all the other limitations of independent claims in combination with uniquely distinct features represented by underlined bold claim limitations recited below;

For Claims 1-18 and 22-25

**a first fluid disposed adjacent the substrate, the first fluid absorbing at least one wavelength of light; a light-transmissive second fluid immiscible with the first fluid; at least one electrode for applying an electric field to the first fluid; and a concealment member spaced from the substrate and formed from a substantially opaque material, such that, in**

the absence of an electric field, the first fluid covers a first area of the substrate, but that upon application of an electric field to the first fluid by the at least one electrode, the first fluid moves to a second area smaller than the first area and substantially confined between the concealment member and the substrate, so that the concealment member substantially conceals the first fluid from an observer viewing the display from the opposed side of the concealment member from the substrate.

For Claims 19-21

a substrate having an exposed surface resistant to wetting by the fluid; at least three conductive vias extending through the substrate and terminating adjacent the exposed surface thereof; and cap members covering the ends of the conductive vias adjacent the exposed surface, the cap members being formed of a material wetted by the fluid.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Conclusion*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prabodh M Dharia whose telephone number is 571-272-7668. The examiner can normally be reached on M-F 8AM to 5PM.

8. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

/Prabodh M Dharia/

Primary Examiner

Art Unit 2629

May 14, 2008